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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,388	03/06/2002	Koji Imura	L9289.02139	2899
24257	7590	01/11/2006	EXAMINER	
STEVENS DAVIS MILLER & MOSHER, LLP 1615 L STREET, NW SUITE 850 WASHINGTON, DC 20036			LEE, RICHARD J	
			ART UNIT	PAPER NUMBER
			2613	

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/070,388

Applicant(s)

IMURA ET AL.

Examiner

Richard Lee

Art Unit

2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 23-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 23-30 is/are rejected.
- 7) ☒ Claim(s) 31 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

Art Unit: 2613

1. The applicant's arguments from the amendment filed October 11, 2005 have been noted, considered, and addressed in the following grounds of rejection.

2. Claims 23-27, and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

For examples:

(1) claim 23, line 7, before "transmission", "a" should be changed to "said" in order to provide proper antecedent basis for the same as specified at lines 5-6; and

(2) claim 27, line 6, , before "transmission", "a" should be changed to "said" in order to provide proper antecedent basis for the same as specified at line 5.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 23, and 25-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Kato et al (6,151,360).

Kato et al discloses a method for encoding video signal using statistical information as shown in Figures 3 and 17, and the same image coding apparatus and method, and computer readable recording medium that stores an image coding program as claimed in claims 23, and 25-29, comprising the same dividing a digital image into macroblocks and a coder (see column 5, line 38 to column 6, line 18) that performs image coding processing for an image on a per

Art Unit: 2613

macroblock basis; generating a transmission unit using a plurality of coded macroblocks (i.e., the preset time interval represents a transmission unit that is generated using a plurality of coded macroblocks, see column 6, lines 5-18, column 7, lines 15-35, column 17, lines 1-31); a macroblock counter that counts the number of macroblocks that are image coding processed in the coder for a transmission unit (i.e., counter 31 of Figure 3 counts the data quantity of variable length encoded data every preset time interval, the preset time interval pertaining to macroblocks); a bit counter that, with respect to a transmission unit that is generated using a plurality of macroblocks coded in the coder, counts the amount of codes included in the transmission unit (i.e., bit rate calculation circuit 32 of Figure 3 provides the amount of codes counting included in a preset time interval (transmission unit), whenever a plurality of macroblocks coded in the coding means are generated as one transmission unit, see column 6, lines 5-26, column 7, lines 15-35, column 17, lines 1-31); a significance decider that determines an average amount of codes per macroblock in the transmission unit, from the counted number of macroblocks in the transmission unit and the counted amount of codes in the transmission unit (i.e., bit rate calculation circuit 32 of Figure 3 determines an average amount of codes per macroblock in the transmission unit from the counted number of macroblocks provided by counter 31 and the counted amount of codes in the transmission unit, see column 6, lines 5-26, column 17, lines 1-31), and determines an image decoding significance of the transmission unit, as it would be perceived at a destination of the transmission unit, according to the determined average amount of codes per macroblock (i.e., encoding circuit 40 of Figure 3 sets a target code amount by controlling the quantization step size, derived from the first encoding 30, the quantization step size thereby providing an image decoding significance of the transmission unit

Art Unit: 2613

according to the determined average amount of codes per macroblock provided by bit rate calculation circuit 32, see column 6, lines 5-26, column 17, lines 1-31, column 22, lines 59-67); a significance assigner that assigns significance information representing the determined image significance to the transmission unit for inclusion therein (i.e., variable length encoding circuit 47 variable length encodes the quantized data from quantization circuit 46, the variable length encoded data thereby providing the assigned significance information representing the determined image significance to the transmission unit, see column 5, lines 19-22); the image distribution server comprising the image coding apparatus, the base station comprising the image coding apparatus, and the image coding apparatus comprising the recording medium (see Figures 3 and 17, column 5, lines 38-67).

5. Claims 24, 30, and 31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

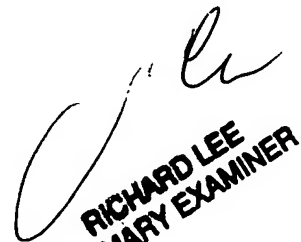
6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 2613

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Lee whose telephone number is (571) 272-7333. The Examiner can normally be reached on Monday to Friday from 8:00 a.m. to 5:30 p.m, with alternate Fridays off.

  
RICHARD LEE  
PRIMARY EXAMINER

Richard Lee/rl 

1/6/06